

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**NEW YORK STATE RESTAURANT
ASSOCIATION,**

Plaintiff,

- against -

**NEW YORK CITY BOARD OF HEALTH,
NEW YORK CITY DEPARTMENT OF HEALTH
AND MENTAL HYGIENE, and Thomas R. Frieden,
In His Official Capacity as Commissioner
of the New York State Department of Health
and Mental Hygiene,**

Defendants.

No. 2007 Civ. _____

**DECLARATION OF
JAMIE RICHARDSON**

JAMIE RICHARDSON hereby declares under penalty of perjury as follows:

1. I am Director of Marketing for White Castle Management Company ("White Castle"). I have held this position for seven years. White Castle is a member of the New York State Restaurant Association and has more than thirty-five restaurants in New York City.

2. White Castle supports the goal of having a healthier nation. We believe that a balanced diet, combined with a healthy and active lifestyle, offers the best plan for overall fitness. White Castle is constantly monitoring our menu and key products. In recent years we have improved our fish sandwich and chicken sandwich specifications; and we are moving forward with a new bun to be used on our fish, chicken and breakfast sandwiches.

3. White Castle has long recognized the importance of allowing customers more easily to understand the nutritional values of the foods they consume. More than fifteen years ago White Castle began voluntarily providing consumers with key nutritional facts about our menu products in a variety of ways. We provided this information initially using a brochure

which was available in our restaurants, and upon request, at our drive through windows. Nine years ago we began publishing the nutrient contents of our menu items on our website, which provides an easy access point for consumers to get nutrition information. Our website offered consumers information on calories, fat, trans fat, protein, sodium and carbohydrates for each of our menu items. Because approximately eighty per cent of the meals White Castle provides are eaten off premises, we have been very proactive in trying to find easy ways for our customers to contact us so that we can share information with them about our products, including nutritional content. We have constantly evaluated how best to share relevant information with customers. We set up a toll free number that consumers could call and request nutrition information about any one of our products. In many restaurants we also provided nutrition information using posters mounted next to the ordering area.

4. As a result of the passage of New York City's menu board labeling regulation, White Castle decided in February 2007 to remove nutrition information about its menu items from its website and not to display posters or hand out brochures containing nutrition information at its restaurants. A copy of the materials formerly posted on our website is attached as Exhibit A. A copy of the brochure we formerly handed out in stores is attached as Exhibit B. White Castle has also stopped providing nutrition information through its toll free number. White Castle felt compelled to take this action for three reasons.

5. One, we disagree with the Regulation because it requires those restaurants that disclose comprehensive nutrition information about their menu items to provide only a partial picture of the nutrient content of the foods on the menu boards. Unlike our website which people could review at their own pace and which contained information tailored to all health needs,

posting calories alone provides incomplete information and assumes that all consumers are the same.

6. Two, the requirement that we post calories on the menu board in a typeface and type size that is the same as the name of the item or its price, whichever is larger, presents great logistical difficulties for us. We do not have enough room on the menu boards to present this information legibly. As it is, we have optimized the use of available space on our menu boards. We would have to reduce the font of the price, calories and item name to a size that would make it difficult for customers to read. It is very important to us to convey information in a customer-friendly way, and we did not believe that complying with New York City's regulation would allow us to do that.

7. Attempting to comply with New York City's regulation would have been even more difficult at our drive-throughs. The signage at our drive-throughs is strictly regulated by the local zoning authorities, and we must obtain permits for any signs we have outside our stores. The requirement to list calories on the menu board would in all likelihood have meant additional signage for restaurant drive-throughs. However, in most city neighborhoods we are already under stringent regulations regarding how much signage we are allowed.

8. Three, we are aware that a number of cities and states across the country have proposed labeling regulations for restaurants. Based on our review, many require that this information be presented in different ways. Changes in requirements such as these translate into cost increases for a day-to-day operation which in turn puts pressure on prices to consumers. Restaurants operate in an intensely competitive environment, where margins may be small. White Castle concluded that it needed time to study whether there was a cost-effective and

efficient way to comply with the different information posting regulations that would also be customer-friendly.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on June 13, 2007


JAMIE RICHARDSON